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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-269**

12 **VIRGINIA EILEEN LOCKETT, aka**
13 **VIRGINIA EILEEN CHASTAIN**

A C C U S A T I O N

14 127 Cottage Avenue, Apt A
Point Richmond, California 94801

15 Registered Nurse License No. 594160

16 *Respondent.*

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about February 1, 2002, the Board of Registered Nursing issued Registered
24 Nurse License Number 594160 to Virginia Eileen Lockett, also known as Virginia Eileen
25 Chastain (Respondent). The Registered Nurse License was in full force and effect at all times
26 relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

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1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license.

3 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
4 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
5 or the possession of, or falsification of a record pertaining to, the substances described in
6 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
7 thereof."

8 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
9 revoke a license on the ground that the licensee has been convicted of a crime substantially
10 related to the qualifications, functions, or duties of the business or profession for which the
11 license was issued.

12 9. Title 16, California Code of Regulations, section 1444 states, in pertinent part:

13 "A conviction or act shall be considered to be substantially related to the qualifications,
14 functions, or duties of a registered nurse if to a substantial degree it evidences the present or
15 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
16 safety, or welfare. . . ."

17 10. Section 493 of the Code states:

18 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
19 the department pursuant to law to deny an application for a license or to suspend or revoke a
20 license or otherwise take disciplinary action against a person who holds a license, upon the
21 ground that the applicant or the licensee has been convicted of a crime substantially related to the
22 qualifications, functions, and duties of the licensee in question, the record of conviction of the
23 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
24 and the board may inquire into the circumstances surrounding the commission of the crime in
25 order to fix the degree of discipline or to determine if the conviction is substantially related to the
26 qualifications, functions, and duties of the licensee in question.

27 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
28 administrative law judge to direct a licentiate found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Conviction of Substantially Related Crime)**

5 12. Respondent is subject to disciplinary action under Code sections 2761(f) and 490 in
6 that she was convicted of a crime substantially related to the duties, qualifications, and functions
7 of a registered nurse in that on or about March 13, 2003, in the San Francisco County Superior
8 Court, Case No. 2090661, Respondent was convicted by nolo contendere plea of violating
9 Vehicle Code section 23152(b) (driving while having a 0.08% or higher blood alcohol level).
10 Pursuant to said conviction, the imposition of sentence was suspended and Respondent was
11 placed on probation for 3 years on various terms and conditions, including prohibitions against
12 operating a motor vehicle without a valid driver's license and against driving with any
13 measurable amount of alcohol in the blood. The factual circumstances underlying the conviction
14 are as follows:

15 a. On or about January 23, 2003. Respondent drove a vehicle while having a 0.08% or
16 higher blood alcohol level.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Conviction of Crime Involving Alcohol)**

19 13. Paragraph 12 is herein incorporated by reference as though fully set forth.

20 14. Respondent is subject to disciplinary action under Code section 2761(a) on the
21 grounds of unprofessional conduct, as defined in Code section 2762(c), in that on or about
22 March 13, 2003, Respondent was convicted of a crime involving the consumption of alcoholic
23 beverages, as set forth above in paragraph 12.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Use of Alcohol to a Dangerous Extent)**

26 15. Paragraph 12 is herein incorporated by reference as though fully set forth.

27 16. Respondent is subject to disciplinary action under Code section 2761(a) on the
28 grounds of unprofessional conduct, as defined in Code section 2762(b), in that on or about

1 January 23, 2003, Respondent used alcoholic beverages to an extent dangerous or injurious to
2 herself and others, as set forth above in paragraph 12.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Conviction of Substantially Related Crime)**

5 17. Respondent is subject to disciplinary action under Code sections 2761(f) and 490 in
6 that she was convicted of a crime substantially related to the duties, qualifications, and functions
7 of a registered nurse in that on or about November 23, 2005, in the Marin County Superior Court,
8 Case No. CR143831, Respondent was convicted by guilty plea of violating Vehicle Code sections
9 23152(b) (driving while having a 0.08% or higher blood alcohol level) and 14601(a) (driving
10 while license suspended or revoked for physical disability). Pursuant to said conviction, the
11 imposition of sentence was suspended and Respondent was placed on probation for 3 years on
12 various terms and conditions, including completion of a post-conviction drinking driver program
13 and a prohibition against driving with any measurable amount of alcohol in the blood. The
14 factual circumstances underlying the conviction are as follows:

15 a. On or about September 13, 2005, Respondent drove a vehicle while having a 0.08%
16 or higher blood alcohol level. On that occasion, Respondent was pulled over by the California
17 Highway Patrol, in Marin County, after weaving in and out of traffic lanes and a violation of a
18 regulatory sign. Upon contacting her, the CHP officer noted that Respondent displayed objective
19 signs of intoxication and performed poorly on field sobriety tests. The results of two test samples
20 taken at the scene showed blood alcohol levels of 0.167% and 0.147%.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Conviction of Crime Involving Alcohol)**

23 18. Paragraph 17 is herein incorporated by reference as though fully set forth.

24 19. Respondent is subject to disciplinary action under Code section 2761(a) on the
25 grounds of unprofessional conduct, as defined in Code section 2762(c), in that on or about
26 November 23, 2005, Respondent was convicted of a crime involving the consumption of
27 alcoholic beverages, as set forth above in paragraph 17.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Use of Alcohol to a Dangerous Extent)**

3 20. Paragraph 17 is herein incorporated by reference as though fully set forth.

4 21. Respondent is subject to disciplinary action under Code section 2761(a) on the
5 grounds of unprofessional conduct, as defined in Code section 2762(b), in that on or about
6 September 13, 2005, Respondent used alcoholic beverages to an extent dangerous or injurious to
7 herself and others, as set forth above in paragraph 17.

8 **EIGHTH CAUSE FOR DISCIPLINE**

9 **(Conviction of Substantially Related Crime)**

10 22. Respondent is subject to disciplinary action under Code sections 2761(f) and 490 in
11 that she was convicted of a crime substantially related to the duties, qualifications, and functions
12 of a registered nurse in that on or about October 15, 2007, in the Marin County Superior Court,
13 Case No. CR153508, Respondent was convicted by guilty plea of violating Vehicle Code sections
14 23152(b) (driving while having a 0.08% or higher blood alcohol level) and 14601.2(a) (driving
15 while license suspended or revoked for driving under influence of alcoholic beverage). Pursuant
16 to said conviction, the imposition of sentence was suspended and Respondent was placed on
17 formal probation for 3 years on various terms and conditions, including a prohibition against
18 driving any vehicle without an ignition interlock device and a declaration as an habitual traffic
19 offender. The factual circumstances underlying the conviction are as follows:

20 a. On or about May 8, 2007, Respondent drove a vehicle while having a 0.08% or
21 higher blood alcohol level. On that occasion, Respondent was pulled over by the California
22 Highway Patrol, in Marin County, after swerving between lanes in an unsafe manner and nearly
23 side swiping another vehicle. Upon contacting her, the CHP officer noted that Respondent
24 displayed objective signs of intoxication and performed poorly on field sobriety tests. The results
25 of two test samples taken at the scene showed blood alcohol levels of 0.203% and 0.200%.

26 **NINTH CAUSE FOR DISCIPLINE**

27 **(Conviction of Crime Involving Alcohol)**

28 23. Paragraph 22 is herein incorporated by reference as though fully set forth.

24. Respondent is subject to disciplinary action under Code section 2761(a) on the grounds of unprofessional conduct, as defined in Code section 2762(c), in that on or about October 15, 2007, Respondent was convicted of a crime involving the consumption of alcoholic beverages, as set forth above in paragraph 22.

TENTH CAUSE FOR DISCIPLINE

(Use of Alcohol to a Dangerous Extent)

25. Paragraph 22 is herein incorporated by reference as though fully set forth.

26. Respondent is subject to disciplinary action under Code section 2761(a) on the grounds of unprofessional conduct, as defined in Code section 2762(b), in that on or about May 8, 2007, Respondent used alcoholic beverages to an extent dangerous or injurious to herself and others, as set forth above in paragraph 22.

MATTER IN AGGRAVATION OF PENALTY

27. Complainant alleges, by way of aggravation of any penalty to be imposed in this matter, that on or about April 23, 2009, Respondent was terminated from the Board's Diversion Program for noncompliance with provisions of the rehabilitation plan after participating in the program since April 26, 2006.

PRAAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 594160, issued to Virginia Eileen Lockett, also known as Virginia Eileen Chastain;
2. Ordering Virginia Eileen Lockett, also known as Virginia Eileen Chastain, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED:

11/17/09

Louise R. Bailey

LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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